

### REMARKS

This responds to the Office Action dated March 7, 2006. Applicant is submitting this response on May 8, 2006, which, because of the weekend rule of 37 C.F.R. § 1.7, falls within two-month time period for response.

Claims 1, 24, and 51-55 are amended. Claims 2 and 25 are canceled without prejudice or disclaimer. Claims 52-55 are amended solely to correct a typographical error in the statement of antecedent basis. As a result, claims 1, 3-24, 26-32, and 51-56 are now pending in this application. Applicant respectfully submits that support for the present claim amendments is found generally within the specification of the patent application (*see, e.g.*, Application at page 8, ¶2).

#### §102 Rejection of the Claims

Claims 1, 2, 6, 7, 11, 18-22, 24, 25, 29, 30, 51, 53 and 55 were rejected under 35 U.S.C. § 102(b) as being anticipated by Shahandeh (U.S. Patent No. 6,532,389). Applicant respectfully traverses.

Applicant cannot find in the cited portions of Shahandeh any disclosure of determining that an implantable device is in a high-energy radiation environment by detecting that a rate of memory errors exceeds a programmable threshold error rate, as similarly recited or incorporated into these claims. Instead, Shahandeh apparently merely checks a page whenever a page parity error is detected. Accordingly, Applicant respectfully requests withdrawal of this basis of rejection of these claims.

#### §103 Rejection of the Claims

1. Claims 3, 10, 13, 14, 16, 17, 26-28, 32, 52, 54 and 56 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Shahandeh (U.S. Patent No. 6,532,389) in view of Foster et al. (U.S. 2003/0036776, “Foster”). Applicant respectfully traverses on the ground that no *prima facie* case of obviousness presently exists with respect to these claims because all elements recited or incorporated in these claims, as amended, are not disclosed, taught, or even suggested by Shahandeh and/or Foster, for the same reasons discussed above with respect to the

§ 102 rejection. Accordingly, Applicant respectfully requests withdrawal of this basis of rejection of these claims.

2. Claim 12 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Shahandeh (U.S. Patent No. 6,532,389). Applicant respectfully traverses on the ground that no *prima facie* case of obviousness presently exists with respect to this claim because all elements recited or incorporated in this claim, as amended, are apparently not disclosed, taught, or even suggested by Shahandeh for the same reasons discussed above with respect to the § 102 rejection.

Moreover, Applicant respectfully disagrees with the Office Action's assertion that "Shahandeh teaches that it is well known in the art (col. 2 line 28) to correct multiple bit errors to avoid corruption of large amounts of memory." (Office Action ¶ 14.) The cited portion of Shahandeh merely notes that correcting multiple bit errors would be a characteristic of an "ideal" system (*see* Shahandeh at col. 2, line 28), however, Shahandeh goes on to observe the numerous difficulties of implementing such a feature in an implanted device (*see id.* at col. 2, lines 31-62). Therefore, Applicant respectfully submits that, when read in context, the cited portions of Shahandeh apparently do not teach that it is well known in the art to correct multiple bit errors in an implanted medical device. In sum, Applicant respectfully requests withdrawal of this basis of rejection of this claim.

3. Claim 15 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Shahandeh (U.S. Patent No. 6,532,389) in view of Foster et al. (U.S. 2003/0036776) as applied to claim 13 above, and further in view of Linberg (U.S. 2002/0032470). Applicant respectfully traverses on the ground that no *prima facie* case of obviousness presently exists with respect to this claim because all elements recited or incorporated in this claim, as amended, are apparently not disclosed, taught, or even suggested by Shahandeh, Foster, and/or Lindberg for the same reasons discussed above with respect to the § 102 rejection. Accordingly, Applicant respectfully requests withdrawal of this basis of rejection of this claim.

4. Claim 23 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Shahandeh (U.S. Patent No. 6,532,389) in view of Ullestad et al. (U.S. Patent No. 6,635,048, "Ullestad").

Applicant respectfully traverses on the ground that no *prima facie* case of obviousness presently exists with respect to this claim because all elements recited or incorporated in this claim, as amended, are apparently not disclosed, taught, or even suggested by Shahandeh and/or Ullestad for the same reasons discussed above with respect to the § 102 rejection. Accordingly, Applicant respectfully requests withdrawal of this basis of rejection of this claim.

*Allowable Subject Matter*

Claims 4, 5, 8, 9, 26, and 31 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Nonetheless, for the reasons discussed above, Applicant respectfully submits that such claims are believed allowable in their present form. Accordingly, Applicant respectfully requests allowance of such claims.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6951 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

KENNETH P. HOYME ET AL.

By their Representatives,

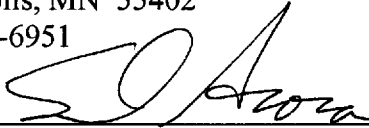
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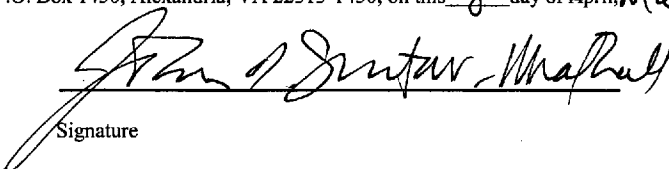
Date May 8, 2006

By   
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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 8 day of ~~April~~ May, 2006.

John D. Gustaf-Waithall

Name

  
Signature